

ONE HUNDRED SIXTH LEGISLATURE - SECOND SESSION - 2020
COMMITTEE STATEMENT
LB461

Hearing Date: Tuesday February 26, 2019
Committee On: Transportation and Telecommunications
Introducer: Friesen
One Liner: Eliminate certificates of public convenience and necessity and permits for common and contract motor carriers and provide a permit process for regulated motor carriers

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:
Aye: 7 Senators Albrecht, Bostelman, DeBoer, Friesen, Geist, Hilgers, Hughes
Nay:
Absent:
Present Not Voting: 1 Senator Cavanaugh

Oral Testimony:

Proponents:

Senator Curt Friesen
Meagan Forbes
Nicole Fox
Mmoupietila N. Nda

Representing:

Introducer
Institute for Justice Minnesota
Platte Institute
Institute for Justice

Opponents:

Ron Hug
Alissa Kern
John Davis
Mary Ridder
Lisa W. Kelly
Bob Borgeson
Joel Bisgard
Bob Harrison

Representing:

City Taxi, Inc.
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zTrip
Nebraska Public Service Commission
Blair Blue Cab, LLC
SMART-TP
Self
Self

Neutral:

Representing:

Summary of purpose and/or changes:

Current law requires motor carriers of passengers (with the exception of ridesharing services) and movers of household goods to get a Certificate of Public Convenience and Necessity from the Public Service Commission (PSC) before they can begin operations. LB 461 would eliminate the certification requirement, which requires a finding by the PSC that existing businesses are not meeting the demand in a particular geographic area within Nebraska. It would replace the certification requirement with a registration requirement, after which the PSC would issue a permit.

Following is a section-by-section summary of LB 461.

Section 1. Amends Section 75-301, intent language provision, to add language relating to the benefits of competition.

Section 2. Amends Section 75-302, definitions. Removes definition of certificate, which is defined as a certificate of public convenience and necessity; changes definition of common and contract carrier; changes definition of permit to substitute regulated motor carrier for contract carrier; adds to definition of regulated motor carrier to include a common

or contract carrier.

Section 3. Amends Section 75-303.01 to change internal reference relating to certificates for non-emergency transportation of Medicaid clients.

Section 4. Amends Section 75-303.02 by substituting permit for certificate requirement in section relating to the Department of Health and Human Services transportation of clients under the Community Services Aging Act.

Section 5. Amends Section 75-303.03 by substituting the term "regulated motor carrier" for common and contract carriers in section relating to DHHS reimbursement rates to carriers.

Section 6. Amends Section 75-304 relating to PSC authority to regulate carriers. It substitutes terminology of regulated motor carrier for common and contract carriers, and strikes references to certificates.

Section 7. Amends Section 75-304.01 by striking language and authority related to common carriers, and substitutes regulated motor carrier for contract and common carriers in section that authorizes the PSC to set minimum rates, fares, and charges.

Section 8. Amends Section 75-305 by striking references to certificates in section that relates to PSC authority to charge annual fees to carriers.

Section 9. Amends Section 75-307, which section relates to proof of insurance and surety requirements for carriers, by striking language relating to common and contract carriers and certificates, and substitutes regulated motor carriers operating under a permit in intrastate commerce."

Section 10. Amends Section 75-309 to provide that current certificates issued to common carriers or permits issued to contract carriers will be in effect on the effective date of the act and shall be deemed in compliance with PSC requirements. It also requires regulated motor carriers to obtain a permit before engaging in intrastate commerce.

Section 11. Amends Section 75-309.01 relating to transporting persons for hire by substituting regulated motor carriers for common or contract carrier, and changes terminology, but not actual impact, relating to proceeds of sale for seized vehicles.

Section 12. Amends Section 75-310 by striking language regarding applications for carrier permits from the PSC, and strikes references to the certification permit process.

Section 13. Amends Section 75-311 by striking language relating to issuances of certificates of public convenience and necessity by the PSC. Instead, it provides that a permit shall be issued by the PSC upon receipt of a complete application, and the applicant agrees and affirms that it will operate as required by PSC rules and regulations. Also, the PSC's authority to review whether there are insufficient operations in the transportation of household goods, in order to withhold new permits, is stricken.

Section 14. Amends Section 75-315, and amends the PSC's authority to terminate or revoke a permit holder's authority to operate. It removes references to certificates and notice and hearing requirements related to revocation of authority.

Section 15. Amends Section 75-316 relating to PSC authority not to allow permit revocation upon the request of carriers, and strikes references to certificates.

Section 16. Amends Section 75-318 which relates to PSC oversight over carrier consolidations, mergers, purchases, leases, or transfers of control, by striking references and hearing processes relating to certificates of public convenience and necessity. It would also change terminology relating to orders approving changes by the PSC.

Section 17. Amends Section 75-319 relating to authority of PSC to grant temporary approval for change of ownership applications. It strikes references to certificates of public convenience and necessity and hearing requirements related to applications for certificates.

Section 18. Amends Section 75-320 relating to stock transactions of carriers relating to change of ownership, by removing references to certificates and applicant fitness.

Section 19. Amends Section 75-321 which relates to the death or mental disability of individual carriers, by eliminating language relating to certificates, including certificate transfer.

Section 20. Amends Section 75-322 which relates to carrier operation by a court-ordered trustee, receiver, custodian, or similar officer. It eliminates reference to certificates.

Section 21. Amends Section 75-324 relating to Transportation Network Companies, and eliminates references to certificates.

Section 22. Provides for an operative date of January 1, 2020.

Section 23. Repealer

Section 24. Outright repeals Section 75-304.02 (obsolete date, movers of household goods); Section 75-313 (Routes of certificated carriers); and Section 75-314 (Deviation from routes of certificated carriers).

Explanation of amendments:

The committee amendment strikes the original sections and inserts language that accomplishes the following:

First, the amendment would strike provisions relating to certificates of convenience and necessity for household goods movers and substitute a licensing process. Section 77-304.02 is amended to provide for a license to be issued by the Public Service Commission to a qualified applicant upon payment of a \$250 annual fee. The applicant would agree to abide by rules and regulations adopted and promulgated by the PSC, and the license could be suspended or revoked by the PSC for failure to comply with rules, regulations, or statutes relating to household goods movers. The license would be for statewide carriage, and no charges for services would be regulated by the PSC.

Second, the amendment would exempt certain carriers who transport passengers for agritourism activities. A motor carrier for hire would be exempt if (a) such services are incidental to agritourism activities as defined in Section 82-603; (b) the destination of the passengers is outside any incorporated city or village; and (3) the point of origination and termination of the motor carrier's service is outside a county that includes a city of the metropolitan or primary class.

Third, the amendment would exempt motor carriers who are engaged in the transportation of employees of a railroad carrier engaged in interstate commerce to or from their work locations.

The act would become operative on January 1, 2021.

Curt Friesen, Chairperson